

### **REMARKS**

Claims 1, 3-11, 13-15, 17-30 and 32-43 are now pending in the application. Claims 19, 34, 43, and 44 are now amended. The claim amendments are fully supported by the application as filed. Claims 1, 3-11, 13-15, 17, 18 and 42 are allowed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **TELEPHONIC INTERVIEW**

Applicants' representative, Brent G. Seitz, thanks Examiner Araj for the courtesies extended during the telephonic interview of November 28, 2006. During the interview, the Examiner indicated that the amendments herein overcome the objections to Claims 19-33 and 43-44. The Examiner also indicated that the amendments herein overcome the Section 112 rejections of Claims 34-38. Thus, all of the pending claims are now in a condition for allowance, except Claims 34-41. With respect to Claims 34-41, the Examiner indicated that the claim amendments and arguments presented herein overcome the Section 103 rejection of Claims 34-41, but that the Examiner would likely withdraw the finality of the current action and issue a new action rejecting Claims 34-41 on a different basis.

### **CLAIM OBJECTIONS**

Claims 19-33 and 43-44 stand objected to for reciting "a neck portion," which was allegedly not disclosed in the specification. In order to expedite prosecution of this application, Applicant now deletes reference to "a neck portion" and replaces this term with "proximal region." Applicants respectfully submit that the term "proximal region" is fully supported by the application as filed and specifically recited in the detailed

description. For example, proximal region 72 is referenced at paragraph 38 and in Figure 3. Further, inclusion of this term will not require further search by the Examiner. Therefore, Applicant respectfully requests reconsideration and withdrawal of this claim objection.

#### **REJECTION UNDER 35 U.S.C. § 112**

Claims 34-38 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action alleges that the term "bone cement region" is not supported by the specification. Applicant now amends Claim 34 to delete reference to "bone cement region" and replaces this term with "an intermediate region," which is fully supported by the application as filed and does not introduce new subject matter or require further search. For example, intermediate region 74 is referenced in paragraph 38 and in Figure 3. Therefore, Applicant respectfully requests that this Section 112 rejection be reconsidered and withdrawn.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 34-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schultheiss et al. (U.S. Pat. No. 6,755,835) in view of Wolf (U.S. Pat. No. 6,629,977). This rejection is respectfully traversed.

Claim 34 recites, in part, "threading a fastening device into a threaded region of the bore to secure an implant such that the implant is secured between the fastening device and the anchor, the fastening device not extending to the intermediate region." Both the Schultheiss et al. and the Wolf references fail to disclose or suggest these features. While the Schultheiss et al. reference appears to disclose engagement

between a cement delivery device and a bone screw via a coupling element 74, the Schultheiss et al. reference fails to disclose or suggest "threading a fastening device into a threaded region of the bore to secure an implant such that the implant is secured between the fastening device and the anchor," as set forth in Claim 34. The Wolf reference also fails to disclose or suggest these features. Therefore, combination of the Schultheiss et al. and Wolf references fails to render obvious Claim 34, and those claims dependent therefrom. Applicant respectfully requests reconsideration and withdrawal of this Section 103 rejection.

Claims 39-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schultheiss et al. (U.S. Pat. No. 6,755,835) in view of Baker et al. (U.S. Pat. No. 5,569,251). This rejection is respectfully traversed.

Claim 39 recites, in part, "fastening the implant to the anchor by threading the fastening device into the anchor to a depth not beyond a tip of the anchor with the implant between the anchor and the fastening device." Both the Schultheiss et al. and Baker et al. references fail to disclose or suggest this feature. Specifically, the Schultheiss et al. reference fails to disclose or suggest fastening an implant to an anchor via a fastening device at all. With respect to the Baker et al. reference, the fastening device 24 extends to a depth beyond a tip of the anchor, which is contrary to Claim 39 which recites that the fastening device is threaded "into the anchor to a depth **not** beyond a tip of the anchor" (emphasis added). Therefore, combination of the Schultheiss et al. and the Baker et al. references fails to suggest each and every feature of Claim 39 and those claims dependent therefrom. Applicant respectfully requests reconsideration and withdrawal of this Section 103 rejection.

### ALLOWED CLAIMS

Claims 1, 3-11, 13-15, 17, 18 and 42 are allowed. Applicant thanks the Examiner for acknowledging the allowable subject matter of these claims.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: Richard W. Warner  
Richard W. Warner, Reg. No. 38,043

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600